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For information

REGULATIONS FOR SYSTEMATIC BIOMETRIC IMMIGRATION INFORMATION SHARING WITH FIVE COUNTRY CONFERENCE PARTNERS

For the President

PURPOSE

This note is to brief you on an upcoming proposal to amend the *Immigration and Refugee Protection Regulations* (IRPR) to support systematic, biometric-based immigration information sharing (IIS) with Australia (AU), New Zealand (NZ) and the United Kingdom (UK). Concurrence by the Minister of Public Safety and Emergency Preparedness (PSEP) is required and recommended. A full regulatory amendment package will follow.

ISSUE

Concurrence from the PSEP Minister is required by the Treasury Board Secretariat as the regulations will have an operational impact for the Canada Border Services Agency (CBSA). Currently, Immigration Refugee and Citizenship Canada (IRCC) is targeting the May 4, 2017 Treasury Board meeting. To meet this deadline, your approval of the full regulatory amendment package will be required by March 24, 2017, and concurrence by the Minister is requested no later than April 10, 2017.

BACKGROUND

Since 2009, Canada has manually conducted fingerprint-based immigration checks with Five Country Conference (FCC) partners under the High Value Data Sharing Protocol (HVDSP). Based on the success of the HVDSP, the FCC partners are implementing the high-volume, systematic fingerprint-based IIS. While the HVDSP cases were selected on officer suspicion or high risk (i.e., refugee claimants), queries through the new system will be automatically sent by the Global Case Management System (GCMS) and will include lower-risk cases such as visa applications. Volume of queries sent and received will also increase from approximately 5000 cases per year/partner to per year/partner, representing a much greater proportion of overall immigration applications, and the need for new IIS arrangements with AU, NZ and the UK.

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Existing case-by-case IIS arrangements, which allowed exchanges based on an officer's reasonable suspicion that such an exchange would reveal details relevant to administering or enforcing immigration or citizenship law, have each been updated to an umbrella IIS arrangement. These arrangements include separate annexes, in which ad-hoc exchanges are described in a Case-by-Case Annex, and systematic exchanges will be described in an Automated Annex. The new bilateral umbrella arrangements and case-by-case annexes with AU, NZ and the UK are in place. The Automated Annex with AU was signed in 2016, and signature of the NZ and UK Automated Annexes is expected by December 2017.

Systematic IIS presents a greater privacy risk than case-by-case IIS as it is not dependent on an officer's reasonable suspicion on a particular case. Thus, a specific IRPR authority for systematic exchanges is preferred. The proposed regulations seek to provide authority in IRPR to automatically disclose limited and prescribed personal information to FCC partners by electronic query.

GCMS functionality supporting systematic biometric IIS with AU will be operationally ready in April 2017. Although systematic exchanges will be automatically triggered in GCMS based on business rules, the functionality will also support officer-initiated biometric queries on a case-by-case basis where reasonable suspicion exists.

STATUS

IRCC consulted the CBSA on both the Regulatory Impact Analysis Statement (RIAS) and proposed regulations. The CBSA's Immigration and Citizenship Programs Branch and Legal Services reviewed the documents and identified some risks.

Considering only automated information sharing is conducted under these regulations, representing a proportion of overall immigration applications,

At the request of the CBSA, the RIAS was updated to include wording to the effect that the regulations do not affect case-by-case exchanges so that when read alongside the regulations, the intent is clear. As was done with previous IIS arrangements, Programs Branch will work closely with Operations Branch to ensure that CBSA officials are provided clear program guidance regarding the scope and intent of the regulations and the authority they confer.

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NEXT STEPS

A full regulatory amendment package for your approval with a recommendation that the Minister concur will be presented to you before March 24, 2017. Programs Branch will continue to work with Operations Branch to ensure that all employees are advised and understand that these regulations do not apply to any exchanges other than those under the Automated annexes of the IIS arrangements with AU, NZ and the UK.

I am available to provide you with an in-person briefing on this file at your convenience.

Martin Bolduc, Vice-President
Programs Branch

ATTACHMENT: